

# **Title 15 - Mississippi State Department of Health**

## **Part III – Office of Health Protection**

### **Subpart 77 – On-site Wastewater**

#### **CHAPTER 01 REGULATIONS GOVERNING RESIDENTAL INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS: ADMINISTRATIVE**

##### **100 PURPOSE**

The purpose of this regulation is to establish standards regarding the, design, construction, installation and approval of Individual On-site Wastewater Disposal Systems to the extent necessary for the protection of public health. This section of the regulations deals specifically with administrative issues, protocols, and responsibilities of concerned parties.

##### **101 AUTHORITY**

The State Board of Health is authorized to promulgate these rules under and by virtue of Section **41-3-15(1)(b)(ii), (4)(a)(b)(c)(e)(h)(i)**, Section **41-3-17** and Section **41-67-1** through **41-67-39, Mississippi Code of 1972, Annotated.**

##### **102 DEFINITIONS**

102.01 Administrative Fine – a fine imposed by the Department for violations of statutes, regulations and orders of the Department.

102.02 Advanced Treatment System – an Individual On-Site Wastewater treatment system that complies with Section **41-67-10**. Section **41-67-2(a)**

102.03 Affidavit (Installation) – a sworn statement in writing by a Certified Installer, Certified Professional Evaluator or Certified Engineer Evaluator to the State of Mississippi attesting that an Individual On-Site Wastewater Disposal System is installed, constructed, repaired or replaced and is in compliance with statutes, requirements, regulations and permit conditions.

102.04 Affidavit (Maintenance) – a sworn statement in writing by a property owner to the State of Mississippi agreeing to a continuing maintenance agreement on the installed alternative system at the end of the required manufacturer's maintenance agreement.

102.05 Alternative Systems – any on-site sewage treatment and disposal system used in lieu of a conventional system. Section **41-67-2(b)**

102.06 Applicant – an owner, lessee, or developer.

- 102.07 Board – the Mississippi State Board of Health. Section **41-67-2(c)**
- 102.08 Board of Supervisors – officials from the districts of each county elected to a four (4) year term that can implement ordinances within the county elected.
- 102.09 Biochemical Oxygen Demand (BOD<sub>5</sub>) – the concentration of oxygen (expressed as *mg/l*) utilized by microorganisms in the oxidation of organic matter during a 5 day period at a temperature of 20 °C (68 °F).
- 102.10 Carbonaceous 5 day Biochemical Oxygen Demand (CBOD<sub>5</sub>) – the concentration of oxygen (expressed as *mg/l*) utilized by microorganisms in the non-nitrogenous oxidation of organic matter during a 5 day period at a temperature of 20 °C (68 °F).
- 102.11 Centralized sewerage system – pipelines or conduits, pumping stations, force mains, and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal other than an Individual On-site Wastewater Disposal System. Section **41-67-2(d)**
- 102.12 Certification Advisory Board – an organization established to advise the Department regarding certification standards for Certified Manufacturers, Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumps and Qualified Homeowner Maintenance Providers.
- 102.13 Construction – the act of installing, repairing or replacing of an Individual On-Site Wastewater Disposal System.
- 102.14 Continuing Education Unit (CEU) – an educational course provided through the Department or other entities approved by the Department for the purpose of meeting continuing education and/or Professional Development Hours (PDH) required for the Certified Professional Evaluator/Environmental, Certified Installer, Certified Maintenance Provider, Qualified Homeowner Maintenance Provider, and Certified Pumper.
- 102.15 Department – the Mississippi State Department of Health.
- 102.16 Department of Environmental Quality – the Mississippi Department of Environmental Quality, Office of Pollution Control.
- 102.17 Design Based System – an individual onsite wastewater disposal system designed and installed in accordance with design standards outlined in this regulation.
- 102.18 Developer – a person who develops real estate for residential or commercial use.

- 102.19 Discharge – to pour forth, emit or release treated effluent on the surface of the property of the generator.
- 102.20 Division – the Mississippi State Department of Health, Division of On-Site Wastewater.
- 102.21 Effluent – sewage, water, or other liquid, partially or completely treated or in its natural state, flowing out of a septic tank, subsurface wastewater infiltration system, aerobic treatment unit, other treatment system or system component.
- 102.22 Federal Clean Water Act – federal legislation amended in 1972 to regulate discharges of pollutants into the waters of the United States. It gave the *United States Environmental Protection Agency (EPA)* the authority to implement pollution control programs such as setting wastewater standards for industry. The Clean Water Act also continued requirements to set water quality standards for all contaminants in surface waters. The Act made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions.
- 102.23 Final Approval – a document issued to the Applicant indicating the Individual On-site Wastewater Disposal System has been completed by the installer in accordance with this regulation, county ordinance or lending institution requirements.
- 102.24 Functioning – an Individual On-site Wastewater Disposal System that has no hydraulically overloaded soil conditions, seepage or discharge to the surface of the property of the generator.
- 102.25 Failure – breakage, weakness, or defect that causes a malfunction in the treatment, distribution, disposal, or dispersal of effluent into the soil absorption field, or that causes a wash-out or disruption of the effluent disposal field as evidenced by:
1. Surfacing or ponding of effluent at, over or around any component.
  2. Backing up of sewage within the residence or establishment.
  3. Contamination of ground or surface waters.
- 102.26 Generator – any person whose act or process produces sewage or other material suitable for disposal in an Individual On-Site Wastewater Disposal System.  
Section **41-67-2(i)**
- 102.27 Individual On-site Wastewater Disposal System (Existing) – a sewage treatment and effluent disposal system that does not discharge into waters of the state, that serves only 1 legal tract, that accepts only residential waste and similar waste streams maintained on the property of the generator, and that is designed and installed in accordance with law and regulations of the Board and has been

occupied for a specific period of time deemed necessary for determining if properly functioning by the Department.

- 102.28 Individual On-site Wastewater Disposal System (New) – a sewage treatment and effluent disposal system that does not discharge into waters of the state, that serves only 1 legal tract, that accepts only residential waste and similar waste streams maintained on the property of the generator, and that is designed and installed in accordance with this law and regulations of the Board. Section **41-67-2(j)**
- 102.29 Individual On-site Wastewater Disposal System (Repair) – a sewage treatment and effluent disposal system that can be made approvable or compliant with Section **41-67-9(2)** by replacing some portion of the sewage treatment and effluent disposal system.
- 102.30 Individual On-site Wastewater Disposal System (Temporary) – an option for wastewater disposal as outlined in Section **41-67-11**.
- 102.31 Malfunctioning – any On-Site Wastewater Disposal System or component part that fails to operate as intended or not in compliance with regulation or state laws.
- 102.32 Maximum Flexibility – the latitude in judgment to be used by authorized agents of the Department to recommend all applicable wastewater disposal systems in compliance with statutes, regulations and rules of the State of Mississippi.
- 102.33 Notice of Intent – required information from an Applicant, which is used by the Department to design an Individual On-site Wastewater Disposal System.
- 102.34 Performance-based System – an Individual On-site Wastewater Disposal System designed to meet standards established to designate a level of treatment of wastewater that an IOWDS must meet, including, but not limited to Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), nutrient reduction and fecal coliform. Section **41-67-2(l)**
- 102.35 Permanent Water Service Connection – a water service connection made to an Applicant's property once the Department has approved the Individual On-Site Wastewater Disposal System.
- 102.36 Permit/Recommendation – documentation given to a Applicant listing all viable options for Individual On-site Wastewater Disposal for the Applicant's lot, tract or parcel.
- 102.37 Person – any individual, trust, firm, joint-stock company, public or private corporation (including a government corporation), partnership, association, state, or any agency or institution thereof, municipality, commission, political subdivision of a state or any interstate body, and includes any officer or

governing or managing body of any municipality, political subdivision, or the United States or any officer or employee thereof.

- 102.38 Plat – a descriptive drawing, including a legal description of the property, indicating the property dimensions, house location, plumbing stub-out(s), driveways and other pertinent information.
- 102.39 Portable Toilet (Self-Contained) – a single or multi-unit toilet and holding tank combination system that is required to be collected, removed, transported and disposed by a Certified Pumper.
- 102.40 Private Water Supply – a deep hole or shaft sunk into the earth to obtain potable water for an individual lot, tract or parcel.
- 102.41 Property of the Generator – land owned by or under permanent legal easement or lease to the generator in perpetuity to the generator, duly recorded in the courthouse. Section **41-67-2(n)**
- 102.42 Public Water Supply – a system that provides water via piping or other constructed conveyances for human consumption to at least 15 service connections or serves an average of at least 25 people for at least 60 days each year. There are 3 types: Community (towns), Non-transient non-community (schools or factories), or Transient non-community systems (rest stops or parks).
- 102.43 Quality Assurance – a program for the systematic monitoring and evaluation of the various aspects of the Mississippi State Department of Health’s On-site Wastewater Program to ensure that standards of quality, laws and regulations are being met.
- 102.44 Repair – the construction, installation and correcting of a malfunctioning Individual On-Site Wastewater Disposal System that cannot be performed as routine maintenance and must be provided by a Certified Installer.
- 102.45 Revocation – permanent withdrawal of rights and privileges granted to certified entity/person.
- 102.46 Seeping – wastewater surfacing typically from an underground system as indicated by hydraulically overloaded soil conditions.
- 102.47 Sensitive Waters – public or private waters used for recreation (swimming, skiing, fishing), shellfish harvesting, potable water intake or other situations where people are likely to come into contact with the water.
- 102.48 Septage – the liquid, solid, and semisolid material that results from wastewater pretreatment in a septic tank or advanced treatment units, which must be pumped, hauled, treated, and disposed of properly. The mixture of solids and liquids removed during cleaning of a septic tank, grease trap, or any other part

of an onsite sewage treatment and disposal system, holding tank, of self-contained toilet which receives domestic sewage; includes the liquid, solid and semi-solid materials which settle to the bottom of transport containers.

- 102.49 Sewage – any liquid waste containing animal, vegetable, or chemical matter in suspension or solution from water closets, urinals, lavatories, bathtubs, laundry tubs or devices, floor drains, drinking fountains or other water-using fixtures. This does not include commercial or hazardous waste generating facility.
- 102.50 Soil and Site Evaluation – the evaluation to determine if a property can support an Individual On-Site Wastewater Disposal System by use of a soil auger to a depth of 5 feet to determine the soil texture, color, mottling and seasonal water table.
- 102.51 Suspension – temporary withdrawal of rights and privileges granted to a certified entity/person.
- 102.52 Temporary Water Service Connection – a water connection made for the purpose of construction and site preparation after the Applicant has received his/her Permit/Recommendation from the Department and agreed to have the Individual On-Site Wastewater Disposal System approved. This will be valid for 1 year, or until converted to a permanent water service connection, whichever comes first. Extensions may be granted in 6 month increments, if the residence is not complete and not being occupied.
- 102.53 Total Suspended Solids (TSS) – the quantity of solids (expressed as *mg/L*) which can be readily removed from a well-mixed sample with standard laboratory filtering procedures.
- 102.54 Variances – a contract between the Department and an Applicant that would be contrary to the regulations and rules of the Board.
- 102.55 Violation – the act of breaking or disregarding the statutes, regulations, orders of the Board, permit condition or certification standards.

## 103 INTRODUCTION

At any place where person(s) reside, are employed and/or congregate there shall be a sanitary method for the disposal of all human excreta and other liquid waste.

All such places mentioned above where a system of wastewater collection and disposal is available shall have a properly constructed connection to the system into which all human excreta and other liquid waste shall be disposed.

Where a system of wastewater collection and disposal is not available, all human excreta and other liquid waste shall be disposed of into a properly constructed and maintained On-Site Wastewater Disposal System. No such system shall be allowed to discharge in a

manner, which will jeopardize public health, welfare or the environment. and/or results in the effluent leaving the property of the generator.

Liquid wastes from homes or business establishments, offices, and places where people reside, are employed, or congregate, not covered in preceding sections, shall be disposed of in a manner which will not jeopardize public health, welfare or the environment.

Individual On-site Wastewater Disposal Systems require periodic maintenance. Periodic maintenance and maintenance providers must be in compliance with Section **41-67-35**.

## 104 **RESPONSIBILITIES**

### 104.01 Mississippi State Board of Health, Section **41-67-3**

1. To exercise general supervision over the design, construction, operation and maintenance of Individual On-site Wastewater Disposal Systems;
2. To adopt, modify, repeal and promulgate rules and regulations, after due notice and hearing, and where not otherwise prohibited by federal or state law, to make exceptions to, to grant exemptions from and to enforce rules and regulations implementing or effectuating the duties of the Board under this chapter to protect the public health. The Board may grant variances from rules and regulations adopted under this chapter, including requirements for buffer zones or from setbacks required under Section **41-67-7** where the granting of a variance shall not subject the public to unreasonable health risks or jeopardize environmental resources.
3. To provide or deny certification for persons engaging in the business of the design, construction or installation of Individual On-site Wastewater Disposal Systems and persons engaging in the removal and disposal of the sludge and liquid waste from those systems.
4. To provide or deny certifications issued to persons engaging in the business of the design, construction or installation of Individual On-site Wastewater Disposal Systems and persons engaging in the removal and disposal of the sludge and liquid waste from those systems.
5. To suspend or revoke certifications issued to persons engaging in the business of the design, construction or installation of Individual On-site Wastewater Disposal Systems or persons engaging in the removal and disposal of the sludge and liquid waste from those systems, when it is determined the person has violated this chapter or applicable rules and regulations;
6. To require the submission of information deemed necessary by the Department to determine the suitability of individual lots for Individual On-site Wastewater Disposal Systems; and

7. To adopt, modify, repeal and promulgate rules and regulations, after due notice and hearing, and where not otherwise prohibited by federal or state law, as necessary to determine the suitability of Individual On-site Wastewater Disposal Systems in subdivisions.
8. To assure the effective and efficient administration of this chapter, the Board shall adopt rules governing the design, construction or installation, operation and maintenance of Individual On-site Wastewater Disposal Systems, including rules concerning the:
  - a. Review and approval of Individual On-site Wastewater Disposal Systems in accordance with Section **41-67-6**;
  - b. Certification of installers and persons engaging in the removal and disposal of the sludge and liquid waste;
  - c. Registration and requirements for testing and listing of Manufacturers of advanced treatment systems;
  - d. Certification of Certified Maintenance Providers;
  - e. Certification of Certified Professional Evaluators;
  - f. Create regulations that authorize the original and any subsequent homeowner to be trained by factory installers or other factory representatives in order to educate the homeowner with the necessary knowledge to provide maintenance to the homeowner's system, thus allowing the homeowner to meet the requirements of Section **41-67-6(8)**.
9. In addition, the Board shall adopt rules establishing performance standards for Individual On-site Wastewater Disposal Systems for single-family residential generators and rules concerning the operation and maintenance of Individual On-site Wastewater Disposal Systems designed to meet those standards. The performance standards shall be consistent with the Federal Clean Water Act, maintaining the wastes on the property of the generator and protection of the public health. Rules for the operation and maintenance of Individual On-site Wastewater Disposal Systems designed to meet performance standards shall include rules concerning the following:
  - a. A standard application form and requirements for supporting documentation;
  - b. Application review;
  - c. Approval or denial of authorization for proposed systems;



- d. Requirements as deemed appropriate by the Board, for annual renewal of authorization;
  - e. Enforcement, of the requirements and conditions of authorization; and
  - f. Inspection, monitoring, sampling and reporting on the performance of the system. Any system proposed for authorization in accordance with performance standards must be designed by a Certified Engineer Evaluator.
- 10. To the extent practicable, all rules and regulations adopted under this chapter shall give maximum flexibility to persons installing Individual On-site Wastewater Disposal Systems and a maximum number of options consistent with the Federal Clean Water Act, consistent with maintaining the wastes on the property of the generator and consistent with protection of the public health. In addition, all rules and regulations, to the extent practicable, shall encourage the use of economically feasible systems, including alternative techniques and technologies for Individual On-Site Wastewater Disposal Systems.
  - 11. All regulations shall be applied uniformly in all areas of the state and shall take into consideration and make provision for different types of soil in the state when performing Soil and Site Evaluations.

#### 104.02 Division of On-site Wastewater

- 1. Provide or deny certifications or registrations issued to Manufacturers, Professional Evaluators, Installers, Pumpers, Maintenance Provider, and Qualified Homeowner Maintenance Providers.
- 2. Suspend or revoke certifications for Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumpers and Qualified Homeowner Maintenance Providers.
- 3. Provide necessary forms and documents to determine the suitability of lots and tracts of land for an Individual On-site Wastewater Disposal System.
- 4. Promulgate rules and regulations to determine the suitability of Individual On-Site Wastewater Disposal Systems in Subdivisions.
- 5. Review and approve the submittal for all designs submitted by Certified Professional Evaluators or Certified Engineer Evaluators.
- 6. Coordinate initial certification, continuing education and training for Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumpers and Qualified Homeowner Maintenance Providers of Individual On-site Wastewater Disposal Systems

as outlined in *Regulation Governing Residential Individual On-site Wastewater Disposal Systems: Certification*.

7. Review submissions and requirement for registration of all specified manufactured wastewater products.
8. Promulgate rules and regulations for Design and Performance-based Systems.
9. Promulgate the rules and regulations to give maximum flexibility to persons installing and maximum number of options to the property owner.
10. Determine the feasibility of centralized sewerage system for subdivisions.
11. Develop Policy and Procedure and provide technical assistance.
12. Coordinate training, continuing education and determine competency of Environmentalists.
13. Monitor Commercial Development and Performance-based System evaluations and documented findings entered in the wastewater computer program.
14. Determine “feasibility” of Subdivisions, and approve Commercial Developments and Performance-based Systems and enter appropriate data related to systems.
15. Monitor Districts/Counties and Certified Professional Evaluators through Quality Assurance Program implemented by the Environmental Health Program Specialists.
16. Ensure computer data is accurate and updated for all certifications and registrations.

#### 104.03 Environmental Health Program Specialist

1. Assist District Environmentalist with variance request.
2. Provide or deny certifications or registrations issued to Manufacturers, Professional Evaluators, Installers, Pumpers, Maintenance Provider, and Qualified Homeowner Maintenance Providers.
3. Suspend or revoke certifications for Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumpers and Qualified Homeowner Maintenance Providers.
4. Conduct field evaluations, when necessary, on all designs submitted by Certified Professional Evaluators.

5. Provide training and continuing education for Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumpers and Qualified Homeowner Maintenance Providers of Individual On-site Wastewater Disposal Systems as outlined in *Regulation Governing Residential Individual On-site Wastewater Disposal Systems: Certification*.
6. Conduct field inspections on all specified manufactured wastewater products, as deemed necessary.
7. Monitor and ensure maximum flexibility to Persons installing and maximum number of options to the property owner.
8. Conduct field visits to determine the “suitability” of Individual On-Site Wastewater Disposal Systems in Subdivisions and enter data in the wastewater computer program.
9. Implement Policy and Procedures and provide technical assistance.
10. Provide training, continuing education and determine competency of Environmentalists.
11. Investigate and enforce all statutes, regulations in regards to violations by Manufacturers, Professional Evaluators, Installers, Pumpers, Maintenance Provider, and Qualified Homeowner Maintenance Providers.
12. Schedule with Hearing Officer within 10 working days on all enforcement proceedings for Manufacturers, Professional Evaluators, Maintenance Provider, and Qualified Homeowner Maintenance Providers.
13. Perform Quality Assurance for trained Environmentalists and Certified Professional Evaluators.
14. Perform Commercial Development and Performance-based System evaluations and document findings in the wastewater computer program.

#### 104.04 District Environmentalist

1. Provide supervision over Regional and County Environmentalists to ensure the design, construction, installation and approval of an Individual On-site Wastewater Disposal Systems.
2. Submit written variance request from property owner to State Health Officer.
3. Suspend or revoke certifications for Certified Installers and Certified Pumpers.
4. Inspect, or designate inspections of, Certified Pumper’s vehicle(s).

5. Ensure, and gather if necessary, all information needed to complete Permit/Recommendation, Installer re-inspection and Applicant final approval request.
6. Assist Qualified Homeowner Maintenance Providers, if necessary.
7. Ensure that Regional and County Environmentalists give maximum flexibility to property owners by recommending the maximum number of approvable options.
8. Demonstrate competency as a Certified Professional Evaluator and Certified Maintenance Provider.
9. Ensure that all regulations are applied uniformly in their areas of the state.
10. Monitor and enter all referred encounters and complaints into the wastewater computer program.
11. Ensure or perform the Soil and Site evaluation within 5 working days of the receiving of a completed Notice of Intent.
12. Ensure or process the Permit/Recommendation within 10 workings days of the completed Soil and Site Evaluation.
13. Approve all Designed-based Systems based on a final inspection.
14. Schedule a hearing within the required 10 working days on all enforcement proceedings for Certified Installer and Certified Pumper.
15. Enter outcome of all Administrative Level Hearings into wastewater computer program.
16. Attend a minimum of 8 hours of Continuing Education Units endorsed by the Division in a calendar year to maintain your certification.

#### 104.05 Regional Environmentalist

1. Provide supervision over County Environmentalist(s) to ensure the design, construction, installation and approval of an Individual On-site Wastewater Disposal System.
2. Issue notice to suspend or revoke certifications for Certified Installers and Certified Pumpers.
3. Inspect, or designate inspections of Certified Pumper's vehicle(s).
4. Ensure, and gather if necessary, all information needed to complete Permit/Recommendations, Installer re-inspections and Applicant final approval requests.

5. Ensure that County Environmentalists give maximum flexibility to property owners by recommending the maximum number of approvable options.
6. Demonstrate competency as a Certified Professional Evaluator and Certified Maintenance Provider.
7. Coordinate with the District Environmentalist on all enforcement issues.
8. Assist Qualified Homeowner Maintenance Providers, if necessary.
9. Ensure that all regulations are applied uniformly in their areas of the state.
10. Monitor and/or enter, all referred encounters and complaints into the wastewater computer program.
11. Ensure or perform the Soil and Site evaluation within 5 working days of the receiving of a completed Notice of Intent.
12. Ensure or process the Permit/Recommendation within 10 workings days of the completed Soil and Site Evaluation.
13. Approve all Designed-based Systems based on a final inspection.
14. Attend a minimum of 8 hours of Continuing Education Units endorsed by the Division in a calendar year to maintain your certification.

#### 104.06 Environmentalist

1. Ensure the design of an Individual On-site Wastewater Disposal System can be constructed, installed and approved.
2. Issue notice to suspend or revoke certifications for Certified Installers and Certified Pumpers.
3. Inspect Certified Pumper's vehicle(s).
4. Gather, if necessary, all information needed to complete Permit/Recommendation, Installer re-inspection and Applicant final approval request, if necessary.
5. Provide maximum flexibility to property owners by recommending the maximum number of approvable options.
6. Demonstrate competency as a Certified Professional Evaluator and Certified Maintenance Provider.
7. Assist Qualified Homeowner Maintenance Providers, if necessary.

8. Investigate complaints and enforce all statutes, regulations, and certification violation for Certified Installer and Certified Pumper.
9. Coordinate with the Regional Environmentalist on all enforcement issues.
10. Ensure that all regulations are applied uniformly in their areas of the state.
11. Perform the Soil and Site Evaluation within 5 working days of the submittal of a completed Notice of Intent.
12. Process the Permit/Recommendation within 10 workings days of the completed Soil and Site Evaluation.
13. Approve all Designed-based Systems based on a final inspection.
14. Initiate all complaints received, within 48 hours.
15. Monitor and/or enter, all environmental health related encounters and complaints into the wastewater computer program.
16. Attend a minimum of 8 hours of Continuing Education Units endorsed by the Division in a calendar year to maintain your certification.

#### 104.07 Clerk

1. Receive from the Applicant a completed Notice of Intent OR Existing Application along with all required documentation including, but not limited to, the following:
  - a. Plat;
  - b. Legal Description;
  - c. Fee
2. Process the fee into PIMS and enter the Notice of Intent information into the wastewater computer program.
3. Place the completed Notice of Intent with attached documentation in a folder with PIMS labels, which must be returned to the Environmentalist.
4. Process fees for Pumper vehicle inspection, the Installer re-inspection and Applicant final approval request into PIMS.
5. Notify the Environmentalist when Certified Installer/Certified Professional Evaluator/Applicant schedules installation inspection.
6. Receive all required documentation for final approval and issue to the Environmentalist:

- a. Affidavit, Certified Installer
- b. Affidavit, Continuous Maintenance Agreement, and
- c. Approval Fee.

#### 104.08 Applicant

1. Submit a Notice of Intent to the Department prior to constructing or placing any mobile, modular or permanently constructed residence, building or facility, which may require the installation of an Individual On-site Wastewater Disposal System.
2. Submit the Permit/Recommendation, for a Temporary Water Service Connection, which is an approved plan for a sewage treatment and disposal system. The Applicant must agree to have system inspected and approved by the Department, before a Permanent Water Service Connection is made.
3. Select an Individual On-site Wastewater Disposal System to be installed and approved from the option(s) listed on the Permit/Recommendation form.
4. Shall provide a final approval request containing the following to the Department:
  - a. Submit a signed Affidavit from the Certified Installer or Certified Professional Evaluator, and any additional required documentation, that the system was installed in compliance with all requirements, regulations and permit conditions applicable to the system installed; and
  - b. Submit an Affidavit agreeing to a continuing maintenance agreement in perpetuity on any Alternative System installed, at the end of the required manufacturer's maintenance agreement, and
    - i. Shall keep a continuing maintenance agreement with a Certified Maintenance Provider; or
    - ii. Become a Qualified Homeowner Maintenance Provider.
5. Violating paragraph 4 above will result in penalties and damages as provided in Section **41-67-28(5)**.

Any Applicant who violates Section **41-67-6(8)** may be assessed an administrative fine in the amount of Five Hundred Dollars (\$500.00) and the public water system may discontinue service to that property owner until the failure to comply with Section **41-67-6(8)** has been corrected.

6. Shall have the right to appeal an adverse determination through the procedures set out in Section **41-67-29**.

#### 104.09 Public Water Supply

No public utility supplying water shall make connection to any dwelling house, mobile home or residence without the prior written approval from the Department certifying that the sewage treatment and disposal system at the location of the property complies with this chapter. Temporary connections of water utilities may be made during construction if the Department has approved a plan (Permit/Recommendation) for a sewage treatment and disposal system and the Applicant has agreed to have the system inspected and approved by the Department before the use or occupancy of the property.

No Temporary or Permanent Water Service Connection shall be provided to any mobile, modular or permanently constructed residence, building or facility unless the Applicant shows proof of the submission of the Notice of Intent required by this section.

### 105 **CERTIFICATION ADVISORY BOARD**

#### 105.01 Purpose

The Certification Advisory Board is responsible for advising the Division on matters pertaining to applicable regulations, technical review of Manufacturer products, and issuing, suspending or revoking of Certification credentials for Certified Manufacturers, Certified Professional Evaluators, Certified Installers, Certified Pumpers, and Certified Maintenance Providers including Qualified Homeowner Maintenance Providers.

#### 105.02 Role

1. Advise the Department regarding the minimum qualifications for a Certified Manufacturer, Certified Professional Evaluator, Certified Installer, Certified Pumper, Certified Maintenance Provider and Qualified Homeowner Maintenance Provider.
2. Advise the Department regarding proposed issuance, suspension or revocation of Certifications of Certified Manufacturers, Certified Professional Evaluators, Certified Installers, Certified Pumpers, and Certified Maintenance Providers including Qualified Homeowner Maintenance Providers.

#### 105.03 Composition and Appointment

1. This 5 member Board shall consist of a licensed Professional Engineer, a Registered Professional Geologists, a licensed Soil Classifier, a Department representative and a member of the Wastewater Advisory Committee.



2. Members shall be appointed by the Department from a list provided by the Mississippi Board of Licensure for Professional Engineers and Surveyors, Mississippi State Board of Registered Professional Geologists, and a Mississippi Certified Soil Classifier listed with the Mississippi Department of Agriculture, Bureau of Plant Industry, Regulation of Professional Services. A member of the Wastewater Advisory Committee will be elected from its members. All members shall be subject to professional ethics of registration and/or Mississippi Ethic Commission.

#### 105.04 Term

Appointments are for 2 years, and each Member is not eligible for re-nomination and reappointment for consecutive terms. The term of office shall coincide with the Fiscal Year of the State of Mississippi, **July 1 through June 30**. The Professional Engineer, Registered Geologists and Soil Classifier will be appointed to the first Board's term for 3 years and every 2 years thereafter.

#### 105.05 Voting

All members, including the Chairman, shall be entitled to vote and to make or second motions. A majority vote of those present is required to pass a motion. A member expecting to be absent for a vote may provide written comments as to his position; however he may not grant a vote by proxy.

#### 105.06 Election and Duties of Officers

1. The Board shall elect during the last scheduled meeting (**2<sup>nd</sup> Tuesday of October**) the following officers: Chairman and Vice Chairman.
  - a. Chairman – The Chairman shall be the executive officer. When present he/she shall preside at all meetings. He/she shall appoint such committees as the Certification Advisory Board as deemed necessary. He/she shall cast 1 vote on all roll calls.
  - b. Vice-Chairman – The Vice Chairman, in the absence of the Chairman, shall perform the duties delegated to the Chairman.

#### 105.07 Meetings and Attendance

1. The Division shall schedule at least 4 regular meetings each year, 1 in each calendar quarter. The meeting will be held on **2nd Tuesday of January, April, July and October** of each year.
2. *Robert's Rules of Order, Revised* shall govern the proceedings of the Certification Advisory Board except as otherwise provided herein or by statute.

3. If a Certification Advisory Board member is absent from 3 consecutive regularly scheduled meetings or is absent from more than 3 meetings during a single fiscal year unless the absence is excused for 1 of the following reasons, the member shall be removed. A court order, subpoena, business with a court which has the sole prerogative of setting the date of such business, death of a family member, or illness of the Certification Advisory Board member, or illness of the member's immediate family.
4. Quorum – 3 or more members present.
5. Order of Business – The order of business at all regular and special meetings shall normally be as recommended by the Division.
6. Special Meetings – Special meetings may be held as needed or as called by the Division. A call for a special meeting under emergency conditions may be issued by telephone and/or other electronic communications.
7. Open Meetings – In compliance with Open Meeting Laws of the State of Mississippi, members of the public are welcome to attend meetings of the Certification Advisory Board. The Certification Advisory Board has adopted the following rules of conduct for members of the general public attending meetings of the Board.
  - a. Members of the public are requested to register with the Division. Organized groups may have only 1 spokesperson.
  - b. Upon request, an individual or a spokesperson will be allowed to address the Certification Advisory Board. Speaking time is limited to 10 minutes, unless extended by the presiding officer.
  - c. When the Certification Advisory Board votes to go into Executive Session, all members of the general public must leave the meeting room; they will be advised when they may re-enter.
  - d. Members of the general public will behave in a calm and measured manner.
  - e. Failure to comply with these rules will be grounds for dismissal from the meeting.
  - f. If members of the public require special provisions accommodating a qualifying temporary or permanent disability in order to attend a Certified Advisory Board meeting, a written request identifying the disability and accommodations needed must be submitted to the Chairman 30 calendar days before the meeting. If this request is not submitted in advance, the availability of on-site accommodations is not guaranteed.

## 106 PROCEDURE FOR NOTICE OF INTENT

106.01 Section **41-67-15** is reenacted and amended as follows:

Nothing in this chapter shall limit the authority of a municipality or Board of supervisors to adopt similar ordinances which may be, in whole or in part, more restrictive than this chapter, and in those cases the more restrictive ordinances will govern. The Department shall not approve any system that does not comply with an ordinance adopted by a municipality or board of supervisors under the authority of this section.

106.02 Prior to construction or placement of any mobile, modular, or permanently constructed residence which may require the installation of an Individual On-site Wastewater Disposal System, the Applicant shall submit a signed Notice of Intent to the Department.

106.03 Upon receipt of the Notice of Intent, the Department shall charge a fee to the Applicant for a Soil and Site evaluation and Permit/Recommendation for Individual On-site Wastewater Disposal Systems (if any) suitable for installation. The fee is payable upon submitting the Notice of Intent.

106.04 The Department shall provide Applicant with complete information on Individual On-site Wastewater Disposal Systems, including but not limited to, applicable rules and regulations regarding the design, construction, installation, operation, and maintenance of Individual On-site Wastewater Disposal Systems and known requirements of lending institutions. This does not apply to cases where a Certified Professional Evaluator provides services relating to design, construction or installation of the Individual On-site Wastewater Disposal System.

106.05 No new Permanent Water Service Connection shall be provided to any mobile, modular or permanently constructed building or facility unless the Applicant shows proof of an approved on-site wastewater system.

106.06 Environmentalists are required by law to make the Soil and Site Evaluation within 5 days of the submission of a completed Notice of Intent. This is to be interpreted in the following manner:

1. The Soil and Site Evaluation shall be performed as soon as possible but not later than 5 working days after the Notice of Intent, plat, legal description, and fee have all been submitted.
2. After the Soil and Site Evaluation, the Department has 10 additional working days to provide a Permit/Recommendation, unless there are conditions requiring further investigation that are revealed in the initial evaluation. This information shall be given to the Applicant so he/she may select the system to be installed.

106.07 The Permit/Recommendation is nontransferable and will be valid for 1 year.

## 107 **DESIGN-BASED SYSTEMS**

Any Individual On-site Wastewater Disposal System which can be designed by an Environmentalist/Certified Professional Evaluator. Some properties cannot support an Individual On-site Wastewater Disposal System due to lot size, soil conditions, site modifications or topography. In such cases, the Department will refer the property owner to a Certified Engineer Evaluator for a Performance-based System design

## 108 **ABANDONMENT (SEPTIC TANK AND PRIVATE WELL)**

108.01 Septic tank: When the use of a sewage septic tank is discontinued the tank should be abandoned, and its further use is prohibited. Septic tanks shall be properly pumped out by the Certified Pumper. An empty tank may be removed at the property owner's option. The hole left by removal shall be filled with sand or soil. An empty tank left in place shall be crushed then filled with sand or soil.

108.02 Private well: When the use of a well is discontinued the well should be abandoned, and its further use is prohibited. In sealing an abandoned well, the solution involves the consideration of the construction of the well and the geological and hydrological conditions of the area. The main factors for proper sealing involves elimination of any physical hazard, the prevention of any possible contamination of the ground water, the conservation and maintenance of the yield and hydrostatic pressure of the aquifer, and the prevention of any possible contact between desirable and undesirable waters. It is suggested that the lower portion is best protected when filled with concrete, cement grout, neat cement or clays with sealing properties. When dug or bored wells are filled, as much of the lining should be removed as possible so that surface water will not reach the water-bearing strata.

## 109 **APPROVAL OF DISPOSAL SYSTEMS**

109.01 An approval is required by current state law for all new Individual On-Site Wastewater Disposal System installed for a permanent water connection. The Environmentalist shall make a final inspection of the system as constructed. If the design, construction and installation of such system are in accordance with the rules and regulations of the Department, and upon receipt of the installer's affidavit, fee, and maintenance agreement (where applicable), approval shall be granted.

If a Certified Professional Evaluator designs, constructs or installs or directly supervises the construction or installation of a Design-based Individual On-Site Wastewater Disposal System in accordance with the regulation and stamps the appropriate documentation with that Certified Professional Evaluator's number,

the Department shall approve the design, construction or installation of the system, if requested.

Approval shall be granted only after the Environmentalist has determined that all administrative requirements stated in this Regulation have been satisfied.

- 109.02 If an inspection is requested, the Department cannot issue a final approval until the property owner has met the following conditions:
1. Notification prior to beginning construction;
  2. Completed affidavit of installation signed and dated;
  3. Remittance of fee; and
  4. For any Alternative System, the qualified homeowner shall remit an affidavit agreeing to a continuing maintenance agreement on the installed system. Depending upon the type of system, this maintenance agreement will be in effect from the time of installation, or for Advanced Treatment Systems, at the end of the required manufacturer's maintenance agreement.
- Section **41-67-6(7)(b)**
- 109.03 If the scheduled requested inspection requires any additional inspections due to noncompliance, a \$25.00 fee will be required for each additional inspection prior to the collection of the approval fee and issuance of the final approval.
- 109.04 The Department reserves the right to deny (void) the Permit/Recommendation(s) if there is extensive grading of the lot or change of house or individual well location after the system recommendations have been issued. Final approval of the system shall not be issued until both the house and well have been constructed.
- 109.05 The issuance of an approval by the Department does not denote or imply any guarantee that the Individual On-site Wastewater Disposal System will function for any specified period of time.
- 109.06 The Department must approve or disapprove the request, for site evaluation, within 15 working days following submission of all required documentation. If the Department disapproves the request, the Department shall state in writing the reasons for the disapproval. If the Department does not respond to the request within 15 working days, the request for approval of an Individual On-site Wastewater Disposal System shall be deemed approved.

## 110 EXISTING SYSTEMS

- 110.01 Section **41-67-9** is reenacted and amended as follows:

1. Existing Individual On-site Wastewater Disposal Systems shall be considered Accepted, provided the following requirements are met:
    - a. The lot is located in an area or subdivision where Individual On-site Wastewater Disposal Systems are considered acceptable under this chapter;
    - b. The residence, building or facility has previously been occupied for a period of time deemed by the Department necessary to determine the functioning capability of the Individual On-site Wastewater Disposal System;
    - c. The system is functioning properly with no evidence that any insufficiently treated effluent is or has been seeping to the surface of the ground and any discharge of treated effluent is confined within the boundaries of the property of the generator; and
    - d. If a private water supply well is present, the well should be located at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least 4 inches extending at least 2 feet in all directions from the well casing.
  2. If an existing residential Individual On-site Wastewater Disposal System is malfunctioning, the system should be replaced, where possible, with a system meeting all requirements of this chapter and rules and regulations of the Board. If replacement of the existing system is not possible, the existing system shall be repaired to reduce the volume of effluent, to adequately treat the effluent and to the greatest extent possible, to confine the discharge to the property of the generator. If repairs are made to significantly upgrade the existing Individual On-site Wastewater Disposal System, the Department shall approve the system, if requested.
  3. The request for an inspection of an existing system must be on forms provided by the Department. The Applicant must indicate to the best of his/her ability the system type, location and status of the system.
- 110.02 Existing systems that do not discharge off the property of the generator, may be inspected and shall be considered Accepted, if they are functioning properly, subject to the following criteria:
1. Conventional System
    - a. The residence shall have been occupied for a minimum of **6 months**, inclusive of inspection date.
    - b. No effluent discharge off the property of the generator.
    - c. No effluent from an underground type system seeping to the surface.

- d. If a private or public water supply is present, the well must be located a minimum of 100 feet from and should be at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least 4 inches extending at least 2 feet in all directions from the well casing. Wells at lower or equal elevations must be properly protected from surface flow.

## 2. Alternative System

- a. The residence shall have been occupied for a minimum of **6 months**, inclusive of inspection date.
- b. No effluent discharge off the property of the generator
- c. If a private or public water supply is present, the well is must be located a minimum of 100 feet from and should be at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least 4 inches extending at least 2 feet in all directions from the well casing. Wells at lower or equal elevations must be properly protected from surface flow.
- d. Provide a copy of maintenance agreement with Certified Maintenance Provider
- e. Provide affidavit agreeing to a continuing maintenance agreement in perpetuity.

## 3. Advanced Treatment System

- a. The residence shall have been occupied for a minimum of **1 month**, inclusive of inspection date.
- b. The system must be in operation to allow for a visual inspection for compliance with the regulation.
- c. The system must also be inspected by a manufacturer's authorized representative and appropriate form submitted.
- d. No effluent discharge off the property of the generator
- e. If a private or public water supply is present, the well must be located a minimum of 100 feet from and should be at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least 4 inches extending at least 2 feet in all directions from the well casing. Wells at lower or equal elevations must be properly protected from surface flow.

4. Existing systems that were originally allowed under a variance can be accepted if there is record of the variance in the file and the system is installed and functioning in accordance with the conditions of the variance.

110.03 For systems at residences that have not been occupied for the required length of time, in lieu of being Accepted, a Permit/Recommendation(s) shall be given after a satisfactory Soil and Site Evaluation, indicating that the lot is acceptable for the use of an Individual On-site Wastewater Disposal System. Later, after occupancy of the residence the required length of time and if an inspection of the existing system determines it is functioning properly, a final acceptance of the system may be granted. If system is not functioning, it must be replaced with recommended system.

110.04 A fee will be charged for a Soil and Site Evaluation of an existing system.

## 111 **REPAIRED SYSTEMS**

111.01 Repairs to Conventional Individual On-site Wastewater Disposal Systems do not have to be approved by the Department, as long as part of the existing system is utilized. Repairs to alternative disposal systems must be in compliance with regulations or in compliance with Section **41-67-9 (2)** and must have a signed affidavit from property owner agreeing to a continued maintenance agreement with a certified maintenance provider.

111.02 Section **41-67-21** is reenacted as follows:

1. The Board or the Department may require a property owner or lessee to repair a malfunctioning Individual On-site Wastewater Disposal System on the owner's or lessee's property before the 30th day after the date on which the owner or lessee is notified by the Department of the malfunctioning system.
2. The property owner or lessee shall take adequate measures as soon as practicable to abate an immediate health hazard.
3. The property owner or lessee may be assessed a civil penalty not to exceed Five Dollars (\$5.00) for each day the Individual On-site Wastewater Disposal System remains un-repaired after the 30 day period.
4. The Board may assess the property owner or lessee of an Individual On-site Wastewater Disposal System authorized pursuant to Section **41-67-3(4)** a civil penalty not to exceed Fifty Dollars (\$50.00) for each day the system fails to meet the performance standards of that system after the 30 day period.
5. All penalties collected by the Board under this section shall be deposited in the State General Fund.



6. Appeals from the imposition of civil penalty under this section may be taken as provided in Section **41-67-29**.

111.03 If an existing residential Individual On-site Wastewater Disposal System is malfunctioning, the system should be replaced, where possible, with a system meeting all requirements of this chapter and rules and regulations of the Board.

If replacement of the existing system is not possible, the existing system shall be repaired to reduce the volume of effluent, to adequately treat the effluent and to the greatest extent possible, to confine the discharge to the property of the generator. If repairs are made to significantly upgrade the existing Individual On-site Wastewater Disposal System, the Department shall approve the system, if requested. Section **41-67-9(2)**

The Department may require a property owner or lessee to repair an improper sewer connection to a sewer system on the owner's or lessee's property before the 10th day after the date on which the owner or lessee is notified by the Department of the malfunction.

A repair must be performed by a Certified Installer.

## 112 **TEMPORARY SYSTEMS**

Section **41-67-11** is reenacted and amended as follows:

Temporary Individual On-site Wastewater Disposal Systems may be approved in an area where Individual On-site Wastewater Disposal Systems otherwise would not be approved because of the availability or feasibility of connection to a centralized sewerage system. Temporary Individual On-site Wastewater Disposal Systems are acceptable only after a contract has been awarded or other definite commitments as are deemed sufficient to the Department are formalized for the construction of municipal or community sewers that upon completion will adequately serve the property. Temporary Individual On-site Wastewater Disposal Systems shall only be approved if the municipal or community sewers will be completed and available for use within 36 months.

112.01 The Department may approve the installation of a temporary system under these circumstances only if the system will comply with the requirements of Section **41-67-5 (1)** and comply with all construction requirements of the Board. The temporary system may be installed only after the developer has signed a written agreement with the centralized sewer provider stating that the Developer will connect to the centralized sewer system when it becomes available, and the provider of the centralized sewer system being constructed certifies that the centralized sewer system will have adequate capacity to accept the sewage to be produced by the temporary systems. The Developer shall install an internal sewage collection system from each lot to the connection point to the central sewer system as he develops the streets of the subdivision. Upon completion of

the sewer construction, all systems shall be abandoned and all residences, buildings or facilities connected to the sewer.

- 112.02 The Board may approve the installation of sewage holding tanks in districts created under Sections **19-5-151** through **19-5-207** for the purpose of providing sewage services. The District shall be required to maintain, or provide for the maintenance of, those holding tanks. The Board shall require that residences be connected to a municipal or community sewage system when that system is available.
- 112.03 In cases where a medical necessity requires the housing of an immediate family member in a mobile home adjacent to a permanent dwelling, a temporary connection may be made to a property functioning existing system, provided the wastewater flow is not projected to increase significantly. A doctor's statement of the medical necessity shall be on file with the Notice of Intent.

### **113 PROHIBITED USES**

Individual On-Site Wastewater Disposal System shall not be used to treat and dispose of the following and therefore must be referred to the Department of Environmental Quality, Office of Pollution Control:

- Waste from commercial slaughterhouses;
- Embalming wastes from funeral homes;
- Any waste containing high levels of any contaminants; and
- Other waste, as determined by the Department.

### **114 HEARINGS AND APPEALS**

114.01 Section **41-67-29** is reenacted as follows:

1. Any person who is aggrieved by any final decision of the Board may appeal that final decision to the chancery court of the county of the situs in whole or in part of the subject matter. The appellant shall give a cost bond with sufficient sureties, payable to the state in a sum to be fixed by the Board or the court and to be filed with and approved by the clerk of the court. The aggrieved party may, within 30 days following a final decision of the Board, petition the chancery court for an appeal with supersedeas and the chancellor shall grant a hearing on the petition. Upon good cause shown the chancellor may grant the appeal with supersedeas. The appellant shall be required to post a bond with sufficient sureties according to law in an amount to be determined by the chancellor. The chancery court shall always be deemed open for hearing of appeals and the chancellor may hear the appeal in termtime or in vacation at any place in his district. The appeal shall have precedence over all civil cases, except election contests. The

chancery court shall review all questions of law and of fact and may enter a final order or remand the matter to the Board for appropriate action as may be indicated or necessary under the circumstances. Appeals may be taken from the chancery court to the Supreme Court in the manner as now required by law, but if a supersedeas is desired by the party appealing to the chancery court, that party may apply therefore to the chancellor, who shall award a writ of supersedeas, without additional bond, if in the chancellor's judgment material damage is not likely to result. If material damage is likely to result, the chancellor shall require a supersedeas bond as deemed proper, which shall be liable to the state for any damage.

114.02 Section **41-67-33** is enacted as follows:

1. The Department shall adopt and use procedures for conducting reviews requested by any person aggrieved by the disapproval or requirements for an On-site Wastewater Disposal System as provided by the Department in written form under Section **41-67-6**. The procedures shall include that the person may request review by submitting a written request of review to the Director of the Office of Environmental Health. The request for review shall identify the matter contested and state the person's name, mailing address and home and daytime phone numbers. Within 10 business days of the receipt of the request for review, the Department shall issue in writing a ruling and determination to the person and if any corrections are necessary to any form previously issued by the Department, then new forms shall be submitted to the Applicant.
2. Any Applicant aggrieved by the ruling issued by the Director of the Office of Environmental Health may apply for a hearing. Any hearing shall be conducted by a hearing officer designated by the Department. At the hearing, the hearing officer may conduct reasonable questioning of persons who make relevant factual allegations concerning the proposal. The hearing officer shall require that all persons be sworn before they may offer any testimony at the hearing, and the hearing officer is authorized to administer oaths. Any Applicant so choosing may be represented by counsel at the hearing. A record of the hearing shall be made, which shall consist of a transcript of all testimony received, all documents and other material introduced, the staff report and recommendation, and any other material as the hearing officer considers relevant. He shall make a recommendation within a reasonable period of time after the hearing is closed and after he has had an opportunity to review, study and analyze the evidence presented during the hearing. The completed record shall be certified to the State Health Officer, who shall consider only the record in making his decision, and shall not consider any evidence or material that is not included. All final decisions regarding the disapproval or requirements for an on-site wastewater disposal system shall be made by the State Health Officer. The State Health Officer shall make his written findings and issue

his order after reviewing the record, not to exceed 30 days following his receipt of the record.

- 114.03 Any Applicant who has been denied an approval or whose property has been declared unsuitable for recommendation of any wastewater disposal system or who has been charged with a violation of this regulation can request a district level hearing in writing within 10 days of notification of the denial or violation. A hearing will be scheduled within 10 calendar days after the request has been filed. The appellant will be notified in writing of the decision of the District Hearing Officer.
- 114.04 The appellant shall have the right to appeal an unfavorable decision to the State Health Officer in writing within 10 days of notification of results of the district-level hearing. A hearing will be scheduled within 30 calendar days after the request has been filed. The decision of the State Health Officer or his/her designee as Hearing Officer will be based solely on the oral, written and documentary evidence presented. The appellant will be notified in writing of the decision.
- 114.05 No individual may file a petition for judicial review with a court of competent jurisdiction until a final written decision and order have been issued.

## **115 VARIANCE**

- 115.01 A variance may be requested, by the property owner, only after the results of a Soil and Site Evaluation has determined a Design-based Individual On-Site Wastewater Disposal System that conforms to the regulation cannot be recommended for installation.
  - 1. The State Health Officer may grant a variance if a thorough investigation reveals that strict application of the Regulation would cause the Applicant undue hardship which results from conditions peculiar to the site or situation under consideration, which conditions could not reasonably have been anticipated in the writing of the Regulation. Further, the granting of such a variance shall not subject the public to unreasonable health risks or jeopardize environmental resources.
  - 2. A request for a variance from the Regulation must be submitted, by the District Supervising Environmentalist, in writing with supporting documentation. This documentation shall include:
    - a. The written initial request for variance from the property owner.
    - b. The complete file must include:
      - i. Plat, representing location and/or dimensions of: property, water supply, residence/driveway, sensitive waters (if applicable), setbacks, recommended system location and soil borings;

- ii. Soil Profile Sheet; and
- iii. Photos, if necessary.
- c. A follow-up site evaluation made by the District Environmentalist and the Program Specialist to confirm the original Soil and Site Evaluation to be correct and that no approvable systems can be installed in compliance with the regulation.
- d. A system recommendation, from the District Environmentalist and Program Specialist that could be installed with a variance.
- e. If no system can be recommended for variance, documentation supporting this determination along with the complete file to this office for review.
- 3. The State Health Officer may revoke any request for variance.
- 4. A variance, if granted, is not transferable from one Applicant to another or from one site to another.

## **116 FEES**

### **116.01 Soil and Site Evaluation**

- 1. Permit/Recommendation.....\$50.00

### **116.02 Submittal Review**

- 1. Design-based System.....\$100.00
- 2. Performance-based System.....\$250.00

### **116.03 Final Approval**

- 1. Design-based System.....\$75.00
- 2. Performance-based System.....\$250.00
- 3. Re-inspection (per inspection).....\$25.00

- 116.04 The fee authorized under this section shall not be assessed for any system operated by state agencies or institutions, including, without limitation, foster homes licensed by the State Department of Human Services. The fee authorized under this section shall not be charged again after payment of the initial fee for any system that has been installed in accordance with this chapter, within a period of 24 months following the date that the system was originally installed.